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Matters Subject to Cooperation.

The right of the works council to cooperate in management actions and decisions applies to those actions specified in Section 75, paragraph 1, numbers 1 and 2, paragraph 3, number 13, Section 76, paragraph 2, numbers 5 and 7, Section 78, paragraph 1, and Section 79, paragraph 1, GPRL.

- Appointments (Section 75, Paragraph 1, Number 1)
- Assignment of higher or lower level duties, upgrading or downgrading, and initial grading (Section 75, Paragraph 1, Number 2)
- Establishment of social plans including retraining plans for the compensation or mitigation of financial disadvantages caused by rationalization measures (Section 75, Para. 3, and Number 13).
- Measures for improvement of work performance and simplification of work flow (Section 76, Paragraph 2, Number 5).
- Introduction of basically new working methods (Section 76, Paragraph 2, Number 7).
- Preparation of administrative instructions of an agency on internal matters of social and personal concern to the employees within its area (Section 78, Paragraph 1, Number 1).
- Deactivation, reduction in strength, relocation, or merger of agencies, or major parts thereof (Section 78, Paragraph 1, Number 2).
- Ordinary notice of termination of employment given by the employer (Section 79).

In connection with these actions, which may only be initiated by management, the following principles and procedures outlined below are applicable.

Objective and Basic Requirements. The objective of the cooperation procedure is to ensure that an action is taken with the moral support of the council rather than against the council's desire. The cooperation procedure requires the agency chief to discuss a planned action with the council before implementing it. The planned action will be discussed in enough time and detail to reach an understanding between the agency chief and the works council. The discussion provides the works council with an opportunity to recommend modifications, or to object to a planned action in its entirety.

Discussion of the Matter. A discussion in the meaning of Section 72, does not necessarily involve a verbal discussion of the matter in a joint meeting of the agency chief and the works council unless it is specifically requested by the latter. The legal requirement of a discussion can also be met by an exchange of correspondence, provided the works council is furnished all pertinent facts and information in sufficient detail to permit the passing of a resolution. However, in matters other than those of a routine nature having a major or significant impact on the local national work force or individual local national employees, the chief of the agency will have a verbal discussion of the matter during a joint meeting with his or her works council. In connection with complex matters, prior official briefings of the works council by expert advisors of the agency chief and/or talks with the executive committee of the works council should be arranged to ensure the full understanding of the planned action by the works council.

Also, such actions are suited to foster the agency chief's relations with the works council in the spirit and letter of the GPRL.

General Procedural Aspects. The procedures and time limits established by Section 72, GPRL, are firm legal requirements which may **not** be altered unilaterally by the agency chief or the works council or by a mutual agreement of both. The agency chief will not take actions subject to works council cooperation before the cooperation procedure with the works council is completed. Failure to follow the prescribed steps of the cooperation procedure may void an action, if challenged in labor court. In exceptional situations, an action may be implemented by means of a preliminary arrangement pending the completion of the cooperation procedure, provided the action cannot be postponed because of its nature (Section 72, paragraph 6, GPRL).

## THE PROCESS

Initiation of Cooperation Procedure at the Local Agency. The chief of the agency must inform the works council of a planned action and request the council's cooperation and concurrence. Though not specifically required by law, such requests for cooperation will be in writing and signed by the agency chief or his or her designated representative in both English and German for proper documentation purposes. The works council's time period of 10 work days for a reply to the planned action only starts on the work day following receipt of all information regarding the matter by the works council. Therefore, the request must contain complete information, justification, and documentation supporting the planned action in the English and German language.

Discussion, Consideration of Works Council's Viewpoints, Final Decision. If explicitly desired by the works council, the agency chief is required to discuss the planned action with the council. To avoid undue delays of planned actions, such discussions should be held during the time period allowed for the works council's reply. If the works council concurs with the planned action, does not object to it within the 10-day time limit, or objects without reasons or with reasons that are obviously unrelated to the action at issue, the agency chief may implement the planned action. If the works council's nonconcurrence is based on reasonable grounds supported by a sound justification, or contains recommendations for a modification of the planned action, the agency chief will duly consider the works council's nonconcurrence, render a final decision and communicate it in writing to the works council. The final decision must respond to all reasons for nonconcurrence submitted by the works council, and contain the agency chief's final determination on how to proceed with the planned action. In doing so, the agency chief may decide to withdraw the planned action based on the works council's comments, implement it as originally proposed, or implement it with all or some of the modifications suggested by the works council.

Works Council Action. Within 3 work days from receipt of the agency chief's final decision, the works council must duly consider the decision and the supporting reasons, and decide to either except the decision or request a decision from the next higher level authority where a works council exists. This decision must be communicated in writing to the agency chief. If the works council excepts the decision, it may be implemented by the agency chief. If the works decides to request a decision from the next higher authority, the agency chief must suspend the implementation of the planned action, and

forward the request for decision through management channels to the next higher authority.

#### Actions at Next Higher Level Authority.

If the next higher level of authority is the Intermediate Authority, the local works council's request for decision will be reviewed by the chief of this authority. If he or she decides not to support the decision of the local agency chief, the latter will be informed accordingly by a memorandum of decision through the local agency's works council with information copy to the District Works Council established at the respective intermediate level.

If the chief of the intermediate authority supports the decision of the local agency chief, he or she must make a pertinent proposal to his or her District Works Council. Following that, the procedures and time limits outlined above for cooperation at the local level apply analogously, except that the District Works Council must request a decision from the highest service authority when not satisfied with the decision of the intermediate agency chief.

#### Actions at the Level of the Highest Service Authority.

At the highest authority level, requests for decisions submitted by either a local or a district works council will be reviewed by Commanding General, USAREUR, or his designated representative. If the decision is to not support the decision of the chief of the intermediate authority or the local agency chief, it will be communicated to the respective chief through the appropriate works council. The Head Works Council, USAREUR/7A will receive an information copy of the decision.

If the Commanding General, USAREUR, or his designated representative support the decision of the chief of the intermediate authority or the local agency chief, a pertinent proposal must be communicated in writing to the Head Works Council. Following that, the procedures outlined in above, apply analogously, before the Commanding General, USAREUR, or his designated representative renders a final decision. This decision is final and not subject to an appeal by the Head Works Council. It will be communicated in writing to the chief of the intermediate authority or the local agency chief through the appropriate district or local works council.

The principles, procedures, and time limits described above also apply when an action is planned by the chief of an intermediate authority or the Commanding General, USAREUR. In these instances, however, the preclusive time periods established for a response by the district works councils and/or the head works council are doubled, i.e., 20 work days (Section 82, paragraph 2, GPRL).